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10 UNITED STATES BANKRUPTCY COURT
11 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
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13 In re:

14 REGINA KIDD,

15 Debtor.

16 REGINA KIDD,

17 Plaintiff

18 v.

19 UNITED STATES DEPARTMENT OF
EDUCATION,

20 Defendant.
21
22

Case no. 19-10514-TWD

Chapter 7

Adv. Proc. No.

COMPLAINT TO DETERMINE
DISCHARGEABILITY OF
STUDENT LOAN DEBT

23 I. PARTIES & JURISDICTION

24 1.1 Plaintiff is the debtor in the above-referenced proceeding. She filed a petition for relief
25 pursuant to Title 11, Chapter 13 on February 16, 2019. She subsequently converted her case to a
26 chapter 7 on or about March 26, 2020.
27

28 COMPLAINT TO DETERMINE DISCHARGEABILITY
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2 1.2 Defendant is the United States Department of Education (“DOE”).

3 1.3 Plaintiff may serve Defendant United States Department of Education by mailing a copy
4 of the Summons and Complaint to the United States Department of Education by certified mail
5 return receipt requested to the below addresses:

6 Secretary of Education Betsy DeVos
7 U.S. Department of Education
8 400 Maryland Ave. SW
Washington, DC 20202

9 US Attorney
10 Attn: Civil Process Clerk
700 Stewart Street, Ste. 5220
11 Seattle, WA 98101-1271

12 Attorney General of the United States
13 Department of Justice
950 Pennsylvania Ave NW, Room B103
Washington, DC 20530-0001

14 Federal Rule of Bankruptcy Procedure 7004(b)(4) and (5).

15 1.4 This Court has jurisdiction over the subject matter as an adversary proceeding under
16 11 U.S.C. §523(a) and 28 U.S.C. §1334.

17 1.6 This is a core proceeding. This is a proceeding in which the Court can enter a final
18 judgment and over which the Court has jurisdiction pursuant to *Stern v. Marshall*, 564 U.S. 293,
19 131 S. Ct. 2594 (2011).

20 2. ACTIONS GIVING RISE TO CLAIM

21 2.1 The Plaintiff attended Griffin Business College in Seattle for three semesters in 1990 and
22 1991. Griffin Business College was a struggling, for-profit school that closed permanently in
23 1993.

24 2.2 The Plaintiff recalls taking two Perkins loans totalling approximately \$4,500.00 while
25 enrolled at Griffin Business College.

26 2.3 Records available at www.studentaid.gov indicate that \$20,677.00 in borrowing is
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attributed by the US Department of Education to Ms. Kidd in 1990-1991, in the form of 7 different loans.

2.4 Ms. Kidd disputes borrowing \$20,677 merely to attend three semesters of business college.

2.5 Records available at www.studentaid.gov further indicate that the US Department of Education attributes to the debtor a currently-owed debt of \$51,760, all tracing to the original disbursements in 1990-1991. The balances now reside in two Direct Consolidation loans and 2 federally-held Perkins loans.

2.6 Records available at www.studentaid.gov show original disbursements and current balances owing as follows, ordered by dates of disbursement:

#	Lender/loan type	Date of disbursement	Amount	Current Principal/Status
1	Sallie Mae FFELP	4/19/1990	\$2,625	\$0 / paid by consolidation
2	USA Funds SLS	5/14/1990	\$4,000	\$0 / paid by consolidation
3	Perkins (DOE held)	12/31/1990	\$2,552	\$2,203 DUE
4	Sallie Mae FFELP	1/14/1991	\$2,625	\$0 / paid by consolidation
5	Nations Bank	1/14/1991	\$4,000	\$0 / paid by consolidation
6	Perkins (DOE held)	5/31/1991	\$2,250	\$2 DUE
7	Sallie Mae FFELP	9/12/1991	\$2,625	\$0 / paid by consolidation
8	USA Funds FFELP Consolidation	2/14/1992	\$12,636	\$0 / paid by tax refund offset AND/OR consolidation
9	US Direct Consolidation Loan	3/12/2001 & 5/18/2001	\$25,370	\$39,796 DUE
10	US Direct Consolidation Loan	3/12/2001	\$6,221	\$9,759 DUE

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3 2.7 Correspondence from the DOE to Ms. Kidd dated April 10, 2019, states payments of
4 \$42,629 had been applied to the loans up to that date.

5 2.8 Correspondence from the DOE to Ms. Kidd dated June 2, 2001, states that loans
6 disbursed on 2/14/1992 and 2/22/1990 were paid in full as a result of a tax refund offset. This
7 would correspond to loan number 8 above (disbursed in the amount of \$12,636 to consolidate
8 prior loans), and one other loan that cannot be reconciled based on the available information.

9 2.9 The debtor has paid her loans through administrative wage garnishment fairly consistently
10 since June, 2013. As described above, she has paid tens of thousands of dollars toward this debt.

11 2.10 The Plaintiff is administrative staff employed by the Seattle School District. She is
12 maximizing her earning ability. She earns a consistent living, but her earnings are consumed by
13 the high cost of living in Seattle. She supports her son and grandson, who live with her. Plaintiff
14 is currently unable to pay the claimed student loan debt without hardship to herself and her
15 dependents.

16 2.11 Plaintiff has used her best efforts to minimize her expenses and increase her income. She
17 prepares her own meals, minimizes her driving to conserve gas, and avoids expensive habits such
18 as smoking or gambling.

19 2.12 Plaintiff's current income is not enough to make meaningful payments on the subject
20 loans and still maintain a minimal standard of living.

21 2.13 At age 58, the Plaintiff is currently relatively healthy, but has several chronic, progressive
22 health problems that are likely to limit her working life. Though Ms. Kidd may be able to
23 continue to work until the age of 65, working beyond that time is unlikely.

24 2.14 Plaintiff's income is not likely to increase significantly in the future. Were she required
25 to pay the alleged remaining balance during her remaining working years, the payments would be
26 beyond her ability to pay and would pose an undue hardship. Repayment over an extended
27 repayment would result in undue hardship after retirement.

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3 2.16 The debtor has a good faith belief that some of the loans disbursed in 1990-1991 were the
4 result of fraud by the school as it collapsed financially before closing forever in 1993. Payments
5 made on loans obtained by fraud or identity theft should be repaid to the borrower, consistent
6 with the DOE's guidelines.

7 2.17 Available records indicate that some of the \$51,760.00 remaining balance may be
8 duplicative, and/or include balances that were previously paid.

9 2.18 The debtor has already paid \$42,629.00 toward loans taken to attend three semesters of a
10 failing business college. It would be an undue hardship and a grave injustice to require her to pay
11 another \$51,760.00, plus interest, on this debt.

12 2.19 The above indicates that the Plaintiff is entitled to a total or partial hardship discharge
13 pursuant to 11 USC 523(a)(8). She has met all of the elements of the *Brunner* test, and is eligible
14 for relief in light of applicable statute and case law.

15
16 III. PRAYER FOR RELIEF

17 THEREFORE, Plaintiff requests the following:

- 18 1. That the Court enter an Order declaring her student loans discharged, in their entirety, in
19 this bankruptcy case.
20 2. That the Court, on a finding that some portion of the debt previously paid was the result
21 of loans taken as a result of fraud or identity theft by the school, or the result of
22 duplication of balances, Order that the DOE refund payments to the Debtor.

23 DATED May 13, 2020.

24 LATIFE NEU, ATTORNEY AT LAW
25 By: /s/ Latife H. Neu
26 Latife H. Neu, WSBA #33144
27 Attorney for Debtor/Plaintiff Regina Kidd

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